

ATTACHMENT 4

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F I L E D
Clerk of the Superior Court

APR 19 2013

BY Noreen McKinley, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

NORTH COUNTY REGIONAL CENTER

DEMETRIO GOMEZ, *et al.*,

Plaintiff,

v.

CITY OF ESCONDIDO, *et al.*

Defendants.

Case No: 37-2011-00060480-CU-CR-NC

[PROPOSED] JUDGMENT

Unlimited Civil Case

Judge Earl H. Maas, III
Dept. N-28

Case Filed: December 20, 2011

Good cause appearing:

1. The [PROPOSED] CONSENT DECREE submitted to the Court on March 22, 2013 and attached hereto as Exhibit A, is hereby adopted as an Order of the Court.

2. Judgment pursuant to the Consent Decree's findings of fact and conclusions of law is hereby made and shall be entered by the Clerk pursuant to the terms and conditions set forth in the Consent Decree.

3. The Court reserves exclusive and continuing jurisdiction over this action for the purposes of enforcing the terms of the Consent Decree and providing such further relief as may be appropriate.

4. Plaintiffs' claims under the federal Voting Rights Act of 1965, as amended, 42 U.S.C. §1973 *et seq.*, are hereby dismissed with prejudice.

5. Plaintiffs' claims against the Escondido City Council, the Mayor of Escondido, the Deputy Mayor of Escondido, and the Escondido City Clerk are hereby dismissed.

IT IS SO ORDERED, ADJUDGED AND DECREED this ____ day of ____, 2013.

Hon. Earl H. Maas, III
Superior Court of the State of California
County of San Diego

NORTH COUNTY REGIONAL CENTER

1 **I. INTRODUCTION**

2 This lawsuit involves a challenge under both the California Voting Rights Act of 2001,
3 Cal. Elec. Code §14025 *et seq.* ("CVRA"), and the federal Voting Rights Act of 1965, as
4 amended, 42 U.S.C. §1973 *et seq.*, ("FVRA"), to the City of Escondido's current method for
5 electing members of its City Council. Under that system, City Council members are elected "at-
6 large" by all of the voters in Escondido. Plaintiffs claim that racially polarized voting in at-large
7 City Council elections dilutes the voting strength of Escondido's Latino voters and thereby
8 impairs their ability to participate in the political process, to elect candidates of their choice, and
9 to influence the outcome of elections. Plaintiffs claim that the at-large system results in a denial
10 or abridgement of their right to vote on account of their race or color, in violation of state and
11 federal voting rights laws, and that the City is required to replace the current at-large system with
12 a district-based system in which the City Council members are elected from non-overlapping
13 subdivisions of Escondido.

14 The parties desire to avoid unnecessary, expensive, and protracted litigation over State
15 CVRA claims on which Plaintiffs are likely to succeed, and have accordingly entered into this
16 Consent Decree ("Decree"). The parties have stipulated, and the Court finds, that voting within
17 Escondido elections is racially polarized, as defined herein, and that, to the extent necessary to
18 establish a violation of the CVRA, this racial polarization results in the abridgement or dilution
19 of the voting rights of Escondido's Latino citizens, impairing their ability to elect candidates of
20 their choosing and influence the outcome of elections. These facts establish a violation of
21 Plaintiffs' rights under the CVRA, and the parties have accordingly stipulated to Defendants'
22 liability under the CVRA. As part of this Decree, Plaintiffs have agreed to dismiss all FVRA
23 claims with prejudice.

24 To remedy this CVRA violation, the Decree provides that Escondido will replace its
25 existing at-large method for electing City Council members with a method in which City Council
26 members are elected from four distinct districts and the Mayor is elected at-large. The Decree
27 provides that an independent districting commission will create and recommend districts, taking
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1 into consideration the requirements of state and federal voting rights laws, the desire for
2 geographic continuity and compactness, and the preference to maintain the integrity of
3 neighborhoods and communities of interest. The Decree requires the Commission to involve the
4 public in its decision-making, and prohibits the Commission from drawing any district that
5 violates state and federal voting rights laws. The Commission's districting plan is subject to final
6 approval by the Escondido City Council.

7 This Decree has been voluntarily entered into by the parties to this litigation, has been
8 approved by the Superior Court of the State of California, County of San Diego as to its form and
9 substance, and is entered as an Order of the Court. This Decree finally resolves all claims in the
10 litigation now pending between the parties. The Court retains jurisdiction to enforce the
11 provisions of this Decree.

12 **II. PURPOSE OF THE CONSENT DECREE**

13 The parties have entered into this Consent Decree for the following purposes:

14 A. To resolve all disputes covered by the Decree in such a way as to avoid
15 unnecessary, expensive, and protracted litigation in a case in which Defendants are willing to
16 stipulate to liability;

17 B. To ensure that future elections for the City of Escondido's City Council are
18 conducted under a district-based method of election in compliance with the CVRA; and

19 C. To establish a fair and impartial process, providing adequate public notice and
20 opportunity for comment, for the design and adoption of a plan for electing members of the City
21 Council that replaces the current at-large voting system with a district-based system that provides
22 for four single-member districts that are drawn in compliance with State and federal law.

23 **III. DEFINITIONS**

24 When used in this Decree, the terms defined below shall have the following meanings:

25 A. "Approval Date" means the date upon which the Court signs this Decree.

26 B. "At-large" means a voting system in which the voters of the entire jurisdiction
27 vote for all of the members of the governing body. Cal. Elec. Code §14026(a)(1).

- 1 C. "City" means the City of Escondido.
- 2 D. "City Council" means the Escondido City Council.
- 3 E. "Court" means the Superior Court of the State of California, County of San Diego.
- 4 F. "Defendants" means the City of Escondido; the City Council; and the Mayor,
5 Deputy Mayor, and City Clerk, in their official capacities for the City of Escondido.
- 6 G. "District-based" means a method of electing members to the governing body of a
7 political subdivision in which the candidate must reside within an election district that is a
8 divisible part of the political subdivision, and is elected only by voters residing within that
9 election district. Cal. Elec. Code §14026(b).
- 10 H. "Escondido" means the City of Escondido.
- 11 I. "Final Approval" means the entry of this Decree by the Court.
- 12 J. "Political subdivision" means a geographic area of representation created for the
13 provision of government services, including, but not limited to, a city, a school district, a
14 community college district, or other district organized pursuant to state law. Cal. Elec. Code
15 §14026(c).
- 16 K. "Plaintiffs" means Demetrio Gomez, Giovanni Campos, Oscar Gomez, Mateo
17 Saldivar, and Samuel Saldivar.
- 18 L. "Protected class" means a class of voters who are members of a race, color or
19 language minority group, as this class is referenced and defined in the federal Voting Rights Act,
20 42 U.S.C. §1973 *et seq.* Cal. Elec. Code §14026(d).
- 21 M. "Racially polarized voting" means voting in which there is a difference in the
22 choice of candidates or other electoral choices that are preferred by voters in a protected class,
23 and in the choice of candidates and electoral choices that are preferred by voters in the rest of the
24 electorate. Cal. Elec. Code §14026(e).
- 25 N. "Voter" means any person who is a United States citizen 18 years of age or older
26 and who is registered or eligible to vote in Escondido.

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1 **IV. LITIGATION BACKGROUND**

2 On December 20, 2011, Plaintiffs (all of whom are Latino voters in Escondido), and the
3 State Building and Construction Trades Council of California filed a complaint alleging that the
4 City's at-large system for electing members of the Escondido City Council dilutes the voting
5 strength of Escondido's Latino voters and thereby impairs their ability to participate in the
6 political process, to elect candidates of their choice, and to influence the outcome of elections.
7 Plaintiffs alleged that the City's at-large system results in a denial or abridgement of their right to
8 vote on account of race or color, in violation of both the CVRA and the federal Voting Rights
9 Act. Plaintiffs sought a declaratory judgment that Escondido's at-large method of electing City
10 Council members violates the CVRA and the federal Voting Rights Act; preliminary and
11 permanent injunctive relief enjoining Defendants from applying the at-large system to future City
12 Council elections; permanent injunctive relief mandating a new district-based system for City
13 Council elections; and attorneys' fees and costs.

14 Defendants demurred to Plaintiffs' complaint, challenging the State Building and
15 Construction Trade Council's standing. The Court sustained Defendants' demurrer and
16 dismissed the Council from the action on March 28, 2012. Defendants thereafter answered the
17 Complaint on April 2, 2012. Defendants denied every allegation in Plaintiffs' complaint and
18 asserted that Plaintiffs were entitled to no relief on their claims under the CVRA or the federal
19 Voting Rights Act.

20 Notwithstanding this denial of liability, Defendants sought to address the claims in
21 Plaintiffs' complaint by including provisions converting the City's at-large method for electing
22 City Council members to a district-based system in a proposed charter for the City, which was
23 under consideration by the City Council prior to the initiation of this lawsuit and which included
24 several provisions unrelated to City Council elections. On May 23, 2012, the City Council voted
25 to include in the proposed charter the following sections:

26 Section 300. Enumeration and Term

27 The elected officers of the City shall consist of:

28 A City Council composed of five members who are registered voters of the City,
 four to be residents of their respective Districts and nominated and elected only by
 the residents of their respective Districts. The fifth shall be nominated and elected

1 from the City at large and shall hold the office of Mayor.

2 Section 301. Districts

3 For the purpose of electing the members of the Council, excepting the Mayor, the
4 City shall be divided into four Districts. The City Council shall, by ordinance,
5 establish four Districts that shall be used for the elections of Council members,
6 excepting the Mayor. Said Districts shall be in compliance with applicable laws.
7 The ordinance establishing the boundaries of the Districts shall be adopted on or
8 before December 31, 2013.

6 Section 302. Redistricting

7 District boundaries shall be altered when necessary as shown by the most recent
8 federal decennial census, or by more current data certified by the City Council as
9 sufficiently reliable and detailed to serve as a basis for district boundary alteration,
10 or by annexation or consolidation of territory.

9 After a further public hearing held on June 13, 2012, the City Council voted to submit the
10 proposed charter to the voters at the November 6, 2012 general election. The Court stayed
11 proceedings in this case pending the outcome of that election.

12 The voters ultimately rejected the proposed charter. Escondido therefore continues to
13 elect City Council members through its existing at-large system.

14 On November 26, 2012, Defendant City of Escondido filed a statement with the Court
15 expressing Defendants' intent "to resolve this action without continuing litigation." The parties
16 thereafter engaged in extensive settlement discussions and exchanged various proposals
17 regarding injunctive relief. After extensive negotiations, the parties agreed upon the terms of this
18 Decree.

19 **V. JURISDICTION**

20 The Court has jurisdiction over the parties and subject matter of this action, and venue is
21 proper in this Court. The Complaint in this action asserts claims that authorize the Court to grant
22 the injunctive relief set forth in this Decree. The Court shall retain jurisdiction over this matter to
23 enforce the provisions of the Decree, and for such further relief as may be appropriate.

24 **VI. TERM OF THE DECREE**

25 A. The equitable provisions of this Decree are effective immediately upon the
26 Approval Date.

27 B. Except as otherwise provided herein, the provisions of this Decree and the
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1 agreements contained herein shall remain in effect for a period of five (5) years from the
2 Approval Date, or for a period of one (1) year from the date a final initial Districting Plan is
3 adopted, whichever is later.

4 VII. RELEASE AND DISMISSAL OF CLAIMS

5 Plaintiffs and Defendants hereby stipulate to the dismissal of all claims by Plaintiffs
6 against the City Council, Mayor, Deputy Mayor, and City Clerk. Upon Final Approval of the
7 Decree, for and in consideration of the mutual promises, terms, and conditions by and between
8 Plaintiffs and Defendants set forth herein, the sufficiency of which is expressly acknowledged,
9 the Plaintiffs do hereby fully, finally, and forever release and discharge Defendants and anyone
10 acting in concert with or on behalf of them, from any and all past and/or present claims,
11 demands, actions, causes of action, suits, damages, liabilities, assessments, judgments, attorneys'
12 fees, costs, losses, debts, obligations and expenses, of any and every nature whatsoever, arising
13 from the City's current at-large system for electing City Council members. Provided, however,
14 that this Decree does not constitute a waiver of any claims arising after the Approval Date,
15 including claims arising from any at-large system for electing City Council members that may be
16 established in the future that differs from that set forth in this Consent Decree and claims for any
17 additional attorneys' fees or costs incurred by Plaintiffs after the Approval Date in litigating this
18 lawsuit.

19 VIII. STIPULATION AND DETERMINATION OF LIABILITY

20 A. Factual Findings

21 The parties stipulate to, and the Court makes, the following findings of fact:

22 Existing City Council Election System

23 1. The City of Escondido is a general law city organized under the laws of
24 the State of California, Cal. Gov't Code §34100 *et seq.*, located in the County of San Diego. The
25 City is a political subdivision within the meaning of Cal. Elec. Code §14026(a).

26 2. Escondido is governed by a five-member Escondido City Council, which
27 acts as the governing and legislative body for the City, within the meaning of Cal. Elec. Code
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1 §14028(a).

2 3. The City Council is composed of the Mayor of Escondido and four City
3 Council members, all of whom serve four-year terms. City Council elections are staggered such
4 that two City Council members are elected every two years.

5 4. City Council elections are conducted by an "at-large method of election,"
6 within the meaning of Cal. Gov't Code §14026(a)(1). All Escondido voters, regardless of where
7 they reside within Escondido, vote for their preferred City Council candidates, and the two
8 candidates who receive the most votes are elected to the City Council.

9 5. Consistent with and in compliance with California law regulating general
10 law cites, the City has used an at-large voting system since its incorporation in 1888.

11 Escondido's Voting Population

12 6. As of the 2010 census, the total population of Escondido was 143,911.

13 7. As of the 2010 census, 48.9% of Escondido's total population, or 70,326
14 residents, were Hispanic or Latino.

15 8. Latinos comprise approximately 26% of Escondido's Citizen Voting Age
16 Population (CVAP).

17 9. Escondido's Latino residents are not evenly dispersed throughout
18 Escondido. Rather, Latino residents are concentrated in specific neighborhoods, including
19 neighborhoods in Escondido's historic central core such as the Mission Park neighborhood.

20 Escondido Has a Pattern of Racially Polarized Voting that Impairs the Ability of Latino
21 Voters To Elect Candidates of their Choice

22 11. Voting in elections for City Council members has been and continues to be
23 racially polarized. Statistical analyses of multiple elections in Escondido show that Escondido's
24 Latino voters tend to vote similarly to one another, while voting differently from non-Latino
25 voters. The pattern of racially polarized voting in City Council elections is statistically
26 significant. Similar statistically significant patterns exist in elections for the California
27 Legislature, in federal elections, and in voting on state ballot initiatives.

28 12. Prior election results demonstrate that Escondido's at-large method of

1 electing members of the City Council impairs the ability of Latino voters to elect candidates of
2 their choice and to influence the outcome of elections.

3 13. Only two Latinos have ever been elected to the Escondido City Council.

4 **B. Conclusions of Law**

5 Based on the foregoing undisputed facts, the parties hereby stipulate to Defendants'
6 liability under the CVRA. Specifically, the parties stipulate to, and the Court makes, the
7 following conclusions of law:

8 1. Latinos are a protected class under the FVRA and the CVRA.

9 2. Voting in elections for City Council members has been and continues to be
10 racially polarized for purposes of the CVRA.

11 3. To the extent necessary to establish a violation of the CVRA, Escondido's
12 at-large method of electing members of the City Council dilutes the voting rights of Latino voters
13 in Escondido, and thereby impairs their ability to elect candidates of their choice and to influence
14 the outcome of elections.

15 4. Given the evidence of racially polarized voting in Escondido, as well as
16 the resulting abridgement or dilution of the voting rights of Latino voters, Escondido's existing
17 at-large voting system for electing members of City Council violates the CVRA.

18 5. The usual, appropriate, and required remedy where a general law city's at-
19 large method of electing City Council members violates the CVRA is to require a new district-
20 based method of election. Cal. Elec. Code §14029 ("Upon a finding of a violation of [the
21 CVRA], the court shall implement appropriate remedies, including the imposition of district-
22 based elections . . .").

23 6. The necessary remedy for the violation of Plaintiffs' rights under the
24 CVRA is the conversion of Escondido's existing at-large method of electing City Council
25 members into a district-based system in which each of the four City Council member resides
26 within, and is elected by voters within, one of four non-overlapping, geographically defined
27 districts, and the Mayor is elected at-large.

1 7. City Attorney Jeffrey Robert Epp has the legal authority to enter into and
2 sign this settlement agreement for the City of Escondido.

3 **IX. PROCESS FOR CONVERSION FROM AT-LARGE TO DISTRICT-BASED**
4 **ELECTION SYSTEM**

5 A. Appointment of Independent Commission. The City shall establish a seven-
6 member independent districting and redistricting commission ("Commission"), which shall be
7 vested with authority to develop an initial district-based plan for future City Council elections.

8 1. To establish a truly independent districting or redistricting commission, the
9 selection process must be free of political influence and must be reasonably representative of the
10 City's diversity.

11 2. Members of the Commission shall be appointed by a panel of three retired
12 judges residing in San Diego County ("Selection Panel"). For the City's initial districting,
13 Counsel for Defendants shall select one retired judge, counsel for Plaintiffs shall select one
14 retired judge, and the two judges so selected shall select the third retired judge who will serve
15 upon the Selection Panel. For each future redistricting, the City Manager will compile a list of
16 retired judges willing to serve on the Selection Panel and residing in San Diego County. The
17 three members of the Selection Panel will be chosen from that list. The names shall be drawn by
18 the City Manager in the fashion described in California Penal Code sections 900(a) and 902. If
19 one seat on the Selection Panel is left vacant due to a lack of qualified individuals willing to
20 serve, that position shall be filled by a retired judge selected by the other two Selection
21 Commission members. The members of the Selection Panel shall be chosen by June 1 of the
22 year in which this Decree is approved, and thereafter by September 1 of every year in which a
23 national decennial census is taken.

24 3. The Escondido City Clerk shall solicit nominations for appointment to the
25 Commission in accordance with this provision by June 1 of the year in which this Decree is
26 approved, and thereafter by September 1 of every year in which a national decennial census is
27 taken. Individuals or organizations desiring to nominate persons for appointment to the
28 Commission shall do so in writing to the City Clerk within the nominating period.

1 4. The City Clerk shall remove from the pool any individual who is not a
2 qualified elector in the City of Escondido or who, within the ten years preceding the date of
3 application:

- 4 a. Was a candidate for local, federal, or California state office;
- 5 b. Was a paid employee or paid consultant of the campaign for a California
6 political candidate or for a California political committee as defined by federal or state law;
- 7 c. Was an official or paid employee of any California political party
8 organization;
- 9 d. Made monetary contributions to California political campaigns or political
10 parties that exceed a total of \$5,000 during a two-year period, which amount shall be adjusted
11 consistent with the consumer price index in future years; or
- 12 e. Is currently a candidate for local, federal, or California state office.

13 5. The Clerk shall transmit the names and information regarding all
14 remaining nominees with the names of corresponding nominating individuals and organizations
15 to the Selection Panel immediately upon the close of nominations. The Selection Panel shall
16 appoint seven (7) individuals to serve as members of the Commission no later than September 1
17 of the year in which this Decree is approved, and thereafter no later than December 1 of every
18 year in which a national decennial census is taken. The Selection Panel shall use its best efforts
19 to appoint people who will give the Commission racial, geographic, social, and ethnic diversity,
20 and who, in its judgment, have a high degree of competency to carry out the responsibilities of
21 the Commission and a demonstrated capacity to serve with impartiality.

22 6. Persons who accept appointment to the Commission shall, at the time of
23 their appointment, file a written declaration with the Clerk stating that within five (5) years of the
24 Commission's adoption of a final districting or redistricting plan, they will not seek election to a
25 City of Escondido or Escondido Unified School District public office. The members of the
26 Commission shall serve until the districting or redistricting plan adopted by the Commission
27 becomes effective and any and all legal and referendum challenges have been resolved. The City
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1 Council can reconvene the Commission at any time prior to the appointment of the next
2 Commission.

3 7. Any vacancy in the Commission which occurs after the Commission is
4 constituted shall be filled within seven calendar days by the Selection Panel, following the same
5 procedure and using the same criteria established herein.

6 B. Funding of Independent Commission. Within sixty (60) days after the members
7 of the Commission are appointed, the Commission shall adopt a budget and submit it to the City
8 Council. The City Council shall appropriate to the Commission and to the City Clerk the funds
9 necessary for the Commission to accomplish its task, including paying for an expert consultant.

10 C. Retention of Expert Consultant. Once constituted, the Commission shall retain
11 an expert consultant familiar with the requirements of the CVRA and FVRA, census data and its
12 use in redistricting, public engagement in redistricting, and with drawing voting districts.

13 D. Public Hearings and Notice and Comment Period. The Commission shall
14 conduct an open and transparent process that ensures full and meaningful public consideration of
15 and comment on the drawing of district lines.

16 1. The Commission shall provide public notice of and hold a minimum of six
17 (6) public hearings at which all Escondido citizens will have equal opportunity to comment on
18 the drawing of district lines.

19 2. The public hearings shall be held at six geographically diverse locations
20 throughout Escondido. The Commission shall make every reasonable effort to afford maximum
21 public access to its proceedings. In particular, the Commission shall fix the times and locations
22 of the hearings so as to assure accessibility to Escondido's Latino and other ethnic communities,
23 including Escondido's Chinese, Vietnamese, and Filipino communities.

24 3. Notice of each of the public hearings shall be provided in English,
25 Spanish, Chinese, Vietnamese, and Filipino.

26 4. Spanish, Chinese, Vietnamese, and Filipino translation services shall be
27 provided at each of the public hearings.

1 E. Preparation of Preliminary Plan. After having heard comments from the
2 public, and no later than 150 days after the Commission's members are appointed, the
3 Commission shall, in consultation with the expert consultant, prepare a preliminary districting
4 plan dividing the City into four (4) Council districts. If adopted by the City, those districts shall
5 be used for all future elections of City Council members, including their recall, and for filling any
6 vacancy in the office of member of the Council until new districts are established. The
7 Commission shall draw the proposed district boundary lines of the City pursuant to the criteria
8 set forth in the following order of priority:

- 9 1. Districts shall comply with the United States Constitution, including
10 containing reasonably equal population.
- 11 2. Districts shall comply with the federal Voting Rights Act.
- 12 3. Districts shall be geographically contiguous and drawn to encourage
13 geographic compactness.
- 14 4. Districts shall be drawn with respect for geographic integrity of any
15 neighborhood and any community of interest, including racial, ethnic, and language minorities, to
16 the extent possible without violating the requirements of any of the preceding provisions.
17 Communities of interest shall not include relationships with political parties, incumbents, or
18 political candidates.
- 19 5. The place of residence of any incumbent or political candidate shall not be
20 considered in the drawing of district boundaries. Districts shall not be drawn for the purpose of
21 favoring or discriminating against an incumbent, political candidate, or political party.

22 F. Production of Preliminary Plan. The Commission shall file its designated
23 preliminary districting plan with the City Clerk, along with a report outlining the bases on which
24 its decisions were made as to district boundaries and explaining its compliance with the criteria
25 outlined in Subsection IX.E of this Decree, including any definitions of any terms or standards
26 used in drawing its draft plan. The preliminary plan and accompanying report shall be made
27 publicly available.

1 G. Public Hearings on Draft Plan. During the thirty (30) day period after filing the
2 designated preliminary districting plan with the City Clerk, the Commission shall hold at least
3 three (3) public hearings in various geographic areas of the City before it makes any
4 modifications. Notice of the public hearings shall be provided in both English and Spanish, and
5 the public hearings shall be conducted in both English and Spanish.

6 H. Approval of Recommended Districting Plan. After having heard comments
7 from the public on the preliminary plan, and no later than forty (40) days after filing the
8 preliminary districting plan with the City Clerk, the Commission shall, in consultation with the
9 expert consultant, approve a Recommended Districting Plan by majority vote. The approved
10 Recommended Districting Plan will be submitted to the City Council for its up or down approval.

11 I. City Council Approval of Final Districting Plan. The City Council shall hold at
12 least one (1) public hearing on the Recommended Districting Plan of the Commission before any
13 adoption of a Final Districting Plan. No later than forty (40) days after submission of the
14 Recommended Districting Plan to the City Council, the City Council shall either approve or
15 disapprove the Recommended Districting Plan in its entirety. If the Council approves the
16 Recommended Districting Plan, it shall become the Final Districting Plan and shall be
17 implemented. If the Council disapproves the Recommended Districting Plan the Council shall
18 submit in writing to the Commission the reasons for such disapproval. The Commission shall
19 consider any reasons for such disapproval submitted to it by the Council and shall consider
20 whether to make alterations to the Recommended Districting Plan in response to such reasons.
21 Within forty (40) days of the City Council's submission of its reasons for disapproval, the
22 Commission shall submit the same or an altered Recommended Districting Plan to the City
23 Council for approval.

24 J. Implementation of Plan.

25 1. Until new districts are established, the districts drawn shall be used for all
26 regular elections of Council members; for the recall of any Council member elected from the new
27 districts; for the appointment of any new Council member to fill a vacancy in the office of
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1 member of the Council elected from the new districts, and for any special election to fill a
2 vacancy in the office of member of the Council elected from the new districts.

3 2. The first Recommended Districting Plan shall be approved by the City
4 Council no later than 120 days before the November 2014 City Council election. If the City
5 Council has not approved a Recommended Districting Plan by that date, the Recommended
6 Districting Plan most recently submitted to the City Council by the Commission shall become the
7 Final Districting Plan and shall be implemented.

8 3. After the Final Districting Plan has been approved, the City Clerk shall
9 arbitrarily assign each district a number from one to four. The districts will thereafter be
10 designated District One, District Two, District Three, and District Four.

11 4. A period of transition from at-large to district elections will occur from the
12 time of adoption of the first districting plan to the time that the first district elections are held.
13 After the Final Districting Plan is approved, the City Clerk will determine in which District each
14 current City Council member resides. For the purposes of this section, each City Council
15 member resides in the District where that City Council member resides on the date of the Final
16 Districting Plan's approval.

17 5. Based on the City Clerk's residency determinations, the 2014 and 2016
18 City Council elections will be conducted as follows:

19 a. If the two current City Council members elected in November 2010
20 reside in different districts, and the two current City Council members elected in November 2012
21 do not reside in either of those districts, the City will hold elections in November 2014 for the
22 seats representing the two districts where the City Council members elected in November 2010
23 reside. The individuals so elected will replace the two current City Council members elected in
24 November 2010. The City will hold elections for the other two seats in November 2016. The
25 individuals so elected will replace the two current City Council members elected in November
26 2012.

27 b. If the two current City Council members elected in November 2010
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1 reside in different districts, and one of the two current City Council members elected in
2 November 2012 resides in the same district as one of the two members elected in November
3 2010, the City will hold elections in November 2014 for the seat representing the district where
4 one member elected in November 2010 and no member elected in November 2012 resides, and
5 for the seat representing the district in which no City Council member resides. The individuals
6 so elected will replace the two current City Council members elected in November 2010. The
7 City will hold elections for the remaining two seats in November 2016. The individuals so
8 elected will replace the two current City Council members elected in November 2012.

9 c. If the two current City Council members elected in November 2010
10 reside in different districts, and the two current City Council members elected in November 2012
11 reside in the same two districts, the City will hold elections in November 2014 for the seats
12 representing the two districts in which no City Council member resides. The individuals so
13 elected will replace the two current City Council members elected in November 2010. The City
14 will hold elections for the remaining two seats in November 2016. The individuals so elected
15 will replace the two current City Council members elected in November 2012.

16 d. If three or more current City Council members reside in the same
17 district, the City will hold elections in November 2014 for the seats representing the two districts
18 in which no City Council member resides. If all four current City Council members reside in the
19 same district, the City Clerk will choose two seats representing districts in which no current City
20 Council member resides at random, and the City will hold elections in November 2014 for those
21 two seats. The individuals so elected will replace the two current City Council members elected
22 in November 2010. The City will hold elections for the remaining two seats in November 2016.
23 The individuals so elected will replace the two current City Council members elected in
24 November 2012.

25 6. No change in the boundary or location of any district by redistricting as
26 herein provided shall operate to abolish or terminate the term of office of any member of the
27 Council prior to the expiration of the term of office for which such member was elected. An
28

1 incumbent councilmember at the time of the effective date of this provision may run for a
2 Council seat other than the seat which that member currently holds if the councilmember is
3 otherwise eligible to run in that seat.

4 **X. FUTURE REDISTRICTING**

5 The City shall be redistricted pursuant to this Decree at least once every ten years, but no
6 later than 120 days before the next Council election after the national decennial census is
7 released. If the next Council election is within 180 days of the day the national decennial census
8 data is released, redistricting shall be completed no later than 120 days before the following
9 Council election. The Commission shall adhere to the procedural and substantive requirements
10 set forth herein in developing and adopting future redistricting plans. Each redistricting plan
11 shall provide fair and effective representation for all citizens of the City, including racial, ethnic,
12 and language minorities, and shall be in conformance with the requirements of the United States
13 and California Constitutions, and with federal and state statutes.

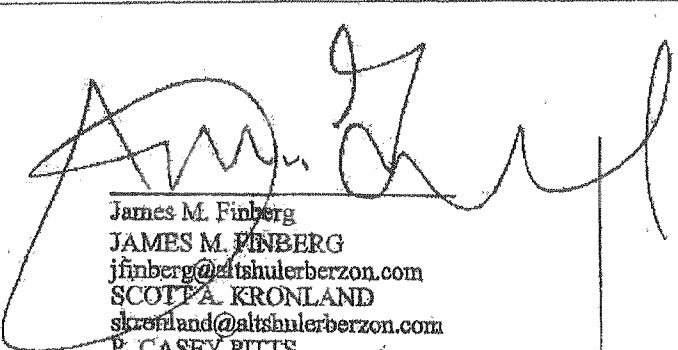
14 **XI. ATTORNEYS' FEES, COSTS, AND EXPENSES**

15 **A. Basis for Award of Fees, Costs, and Expenses**

16 1. The parties have agreed that it is appropriate as part of the settlement
17 underlying this Decree for the City to pay to Plaintiffs reasonable attorneys' fees, litigation
18 expenses, and costs in this case. Plaintiffs are prevailing parties for purposes of the CVRA, Cal.
19 Elec. Code §14030, and Cal. Code Civ. P. §1021.5.

20 B. The City has agreed to pay Plaintiffs an award of reasonable attorneys' fees,
21 litigation expenses, and costs in the amount of \$385,000 for work performed and costs and
22 expenses incurred through and including the Approval Date. This amount is less than the
23 lodestar value of the fees, costs, and expenses incurred by Plaintiffs' counsel through the date on
24 which the parties entered into this Decree. The City shall pay to Plaintiffs' counsel the full
25 amount of \$385,000 for litigation-related attorneys' fees, expenses, and costs within thirty (30)
26 days following the Approval Date.

1 Dated: March 21, 2013


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Attorneys for Plaintiffs

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9 Dated: _____

Demetrio Gomez
Plaintiff

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11 Dated: 3-21-13


Giovanni Campos
Plaintiff

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13 Dated: _____

Oscar Gomez
Plaintiff

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15 Dated: _____

Mateo Saldivar
Plaintiff

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17 Dated: _____

Samuel Saldivar
Plaintiff

18
19 Dated: _____

20
21 John A. Ramirez
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Demetrio Gomez
Plaintiff

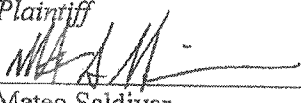
11 Dated: _____

Giovanni Campos
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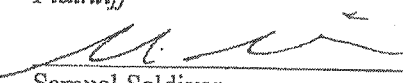
13 Dated: _____

Oscar Gomez
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15 Dated: 03/24/13


Mateo Saldivar
Plaintiff

17 Dated: 03/24/13


Samuel Saldivar
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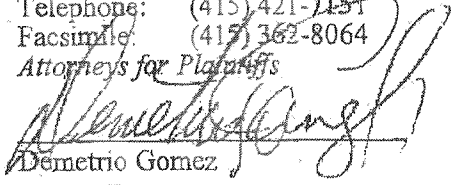
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1 Dated: 4-1-2013

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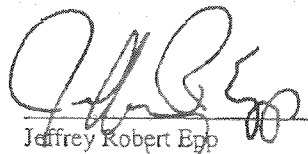
Samuel Saldivar
Plaintiff

19 Dated: 3/21/13


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Dated: March 21, 2013



Jeffrey Robert Epp
City Attorney
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201 N Broadway
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e-mail: jepp@escondido.org
For the City of Escondido

APR 19 2013

1 IT IS SO ORDERED, ADJUDGED AND DECREED this ____ day of ____, 2013.
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JUDGE EARL MAAS

Hon. Earl H. Maas, III
Superior Court of the State of California
County of San Diego

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